

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

DATE OF DECISION: December 16 , 2010.

Parties Name

Shri Salig Ram (now dead) represented by L.Rs.

...PETITIONER.

VERSUS

Shri R.K.Nehru and another

...RESPONDENTS

CORAM: Hon'ble Mr. Justice Jasbir Singh
Hon'ble Mr. Justice Augustine George Masih

PRESENT: Mr. C.B. Kaushik,
Advocate, for the petitioner.

Mr. Rajinder Goyal, Advocate, for respondent No. 2.

JASBIR SINGH, J. (oral)

JUDGMENT

This writ petition has been filed with a prayer to modify award dated August 10, 1987, vide which compensation, for the acquired land, was granted to the petitioner at the rate of Rs. 8/- per square yard.

Heard counsel for the parties. It is apparent from the record that about 19 Kanals of land of the petitioner was sought to be acquired by

issuing a Notification under Section 36 of the Punjab Town Improvement Act, 1922 (in short 1922 Act) on September 16, 1969. Notification under Section 42 (2) of the 1922 Act was issued on March 7, 1972. The Land Acquisition Collector, Bhiwani, vide Award dated January 19, 1973, fixed market price of the land in question at Rs. 1.25 per square yard excluding compensation for the structures. The petitioner was not satisfied. He moved an application under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation, which was allowed by the Tribunal constituted under the 1922 Act vide order dated August 10, 1987 and compensation amount was enhanced to Rs. 8/- per square yard. Even then the petitioner was not satisfied. He came to this Court by filing this writ petition.

It is primary contention of counsel for the petitioner that the Tribunal has not taken note of the potential value of the land under acquisition for its development towards commercial and residential use and further that the evidence produced was not appreciated properly especially judgment passed by this Court (Ex.P-21) on November 25, 1981, awarding compensation for the adjoining land at the rate of Rs. 14/- per square yard. Madan Singh, Clerk, Improvement Trust (PW2) deposed that land is situated on Bhiwani Circular Road, next to the Adarsh College and opposite to the Bus Stand. It was also so reiterated by Ghansham Dass (PW3) who had been working in the Municipal Committee, Bhiwani. He has specifically stated that the land falls within the Municipal limits and is situated next to the General Bus Stand. To know the situation of land, which was subject matter of judgment dated November 25, 1989 (Ex. P-21),

we passed the following order on August 31, 2010:

“At the time of arguments, to enhance compensation, reliance has been placed upon a judgment of this Court, copy of which is Ex. P-21.

It is contention of the counsel for the petitioner that the land, which was subject matter of judgment Ex. P-21, is situated in the near vicinity of the land, which was subject matter of acquisition in this writ petition.

To settle the equities, we deem it proper to direct the Improvement Trust to put on record site plan showing the situation at the spot of the land, which is subject matter of this acquisition and also situation of the land, which was subject matter of acquisition in judgments Ex. P-21 and Ex. P-7, which are found mentioned in paragraph No. 25 of the impugned Award.”

Site plan has been produced in Court today, which clearly indicates that the land in dispute, in this case, is situated on the main road and adjoins the land which was subject matter of judgment Ex. P-21, which is situated at its back side. The potential of the land in dispute, as per situation at the spot, is much more as compared to the land, which was acquired by issuing a notification under Section 36 of the 1922 Act on March 12, 1973. It appears that the Tribunal has not relied upon that instance, to grant compensation because the land was acquired after about 3 ½ years from the date when land in dispute was acquired. Vide the

judgment, mentioned above, the compensation of that land was enhanced to Rs. 14/- per square yard. Taking note of the situation of the land in this case and its proximity to the Bus Stand, and a College and also a fact that it is situated within the Municipal limits, we are of the view that the compensation awarded is on the lower side. We propose to take note of the compensation awarded vide judgment (Ex. P-21) dated November 25, 1989. In the said case, land was acquired 3 ½ years after the land in dispute was acquired. In view of that, we decide to deduct Rs. 4/- towards escalation in prices in the meantime and grant Rs. 10/- per square yard towards compensation in this case. The amount granted towards other statutory benefits by the Tribunal is maintained.

With above said modification, this writ petition stands disposed of. Respondent- Improvement Trust is directed to make payment of the compensation amount within a period of two months.

(JASBIR SINGH)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

December 16 , 2010.
DKC